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UNITED STATE DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
-----X
MISS JONES, LLC,

PLAINTIFF,

-against- Index No.:
7:17-cv-01450-NSR

KEITH STILES, MOY RLTY, LLC, VAN
HASSELT AUTO SERVICE,

DEFENDANTS.
-----X

DATE: January 22, 2018

TIME: 10:05 A.M.

DEPOSITION of the Defendant,

KEITH STILES, taken by the respective
parties, pursuant to a Notice, held at the
offices of Diamond Reporting, Inc. 150
Broad Hollow Road, Melville, New York
11747, before Tiffany Bando, a Notary
Public of the State of New York.

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A P P E A R A N C E S:

ZIMMERMAN LAW, PC
Attorneys for the Plaintiff
315 Walt Whitman Road
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BY: MICHAEL A. ZIMMERMAN, ESQ.

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BY: JEFFREY I. KLEIN, ESQ.

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F E D E R A L S T I P U L A T I O N S

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IT IS HEREBY STIPULATED AND AGREED by and between the counsel for the respective parties herein that the sealing, filing and certification of the within deposition be waived; that the original of the deposition may be signed and sworn to by the witness before anyone authorized to administer an oath, with the same effect as if signed before a Judge of the Court; that an unsigned copy of the deposition may be used with the same force and effect as if signed by the witness, 30 days after service of the original & 1 copy of same upon counsel for the witness.

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IT IS FURTHER STIPULATED AND AGREED that all objections except as to form, are reserved to the time of trial.

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* * * *

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1 STILES

2 August of 2009?

3 A. I believe the address is 118
4 Maddaket Loop Road in Mooresville, in the
5 same town.

6 MR. KLEIN: If you don't mind,
7 M-A-D-D-A-K-E-T Loop, for the
8 Reporter.

9 MR. ZIMMERMAN: That is fine.

10 Q. How long did you live at that
11 address at Maddaket Loop?

12 A. One year.

13 Q. So that would mean you moved in
14 there, approximately, August of 2008?

15 A. Correct.

16 Q. Where did you live prior to
17 that?

18 A. 136 Elmwood Road.

19 Q. That is the subject property
20 that the National City mortgage was taken
21 out?

22 A. Yes.

23 Q. What was the purpose of the
24 second mortgage?

25 MR. KLEIN: I will object to

1 STILES

2 the form. The purpose from whose
3 point of view, the bank's?

4 Q. You took a second mortgage,
5 correct, why did you take the second
6 mortgage? What was the money to be used
7 for?

8 MR. KLEIN: Again, I object to
9 form. If you want to ask what it was
10 used for, I have no objection.

11 MR. ZIMMERMAN: First I am
12 asking when he took the loan what the
13 purpose was for, I will then ask the
14 follow-up question, if I choose to,
15 but there is nothing wrong with the
16 form of the question. It is an
17 understandable question.

18 MR. KLEIN: Please proceed.

19 Q. What was the purpose of the
20 loan that you took?

21 A. What was the purpose of the
22 loan that I took, I don't know that I had
23 an exact purpose when I took the loan in
24 mind. I was offered a line of credit and I
25 accepted it.

1 STILES

2 Q. So it wasn't being used to
3 refinance another mortgage on the property;
4 correct?

5 A. That is correct.

6 Q. Was it being used to refinance
7 other debt or consolidate other debt?

8 MR. KLEIN: Note my objection
9 to the materiality, but you may
10 answer, if you are able.

11 A. Repeat the question.

12 Q. Was the loan intended to be
13 used to consolidate or refinance other
14 debt?

15 A. I think I answered, you know,
16 that I didn't take it with any specific
17 purpose, that it was offered to me and I
18 accepted it.

19 Q. At some point you said it was a
20 line of credit, did you withdraw money from
21 that line of credit?

22 A. I am sure I did.

23 Q. Do you recall how much money
24 you withdrew from that line of credit?

25 A. I don't.

1 STILES

2 Q. What did you use the money that
3 you withdrew for?

4 A. I can't exactly remember what I
5 used it for. We are talking over eight
6 years ago.

7 Q. Did you use any of the money
8 that you withdrew from this line of credit
9 to purchase your current residence in North
10 Carolina?

11 A. No.

12 Q. Did you use any of the money
13 withdrawn from this line of credit to
14 purchase another property?

15 A. No.

16 Q. The property that you lived in
17 prior to your current residence, did you
18 own it?

19 A. No.

20 Q. Do you own your current
21 residence?

22 A. No.

23 Q. Who owns your current
24 residence?

25 MR. KLEIN: That is

1 STILES

2 MR. KLEIN: I am aware of the
3 rules, but the Discovery Demand --

4 MR. ZIMMERMAN: That Discovery
5 Demand, and what does it say, it is
6 withheld until after the deposition
7 because the question can be asked at
8 the deposition.

9 MR. KLEIN: That is not what it
10 says.

11 MR. ZIMMERMAN: Regardless, I
12 am asking the question. This is not
13 a Discovery demand, this is a
14 deposition.

15 MR. KLEIN: Give me some idea
16 where it is going.

17 MR. ZIMMERMAN: I do not need
18 to do that.

19 Can you read back the question,
20 please.

21 (Whereupon, the referred to
22 question was read back by the
23 Reporter.)

24 MR. KLEIN: If you recall the
25 amount, answer the question. It is

1 STILES

2 objected to, but answer.

3 MR. ZIMMERMAN: Please do not
4 advise your client, there is a
5 question pending. He understands the
6 instructions.

7 A. Repeat the question.

8 (Whereupon, the referred to
9 question was read back by the
10 Reporter.)

11 A. I don't see the relevance of
12 the question.

13 Q. Please answer the question.

14 MR. KLEIN: It's an improper
15 question, but I say you can answer it
16 over objection.

17 MR. ZIMMERMAN: Counselor.

18 A. So I don't get to ask the
19 relevance of the question?

20 Q. No.

21 A. I don't get to do that.

22 I don't think I am answering
23 that question. Let's move on.

24 MR. KLEIN: Do you want to mark
25 that to call the judge?

1 STILES

2 year it was for, but I remember seeing
3 something from the town stating either they
4 were paid or weren't paid, I can't
5 remember.

6 Q. What about a 1099 from your
7 first mortgage company regarding property
8 insurance paid by them?

9 A. What is the question?

10 Q. Did you receive any documents
11 indicating the property insurance was paid
12 by your first mortgage company?

13 A. I don't recall.

14 Q. On your 2009 taxes did you
15 deduct property taxes or property
16 insurance?

17 MR. KLEIN: I am going to
18 object because, again, the question
19 about his income taxes, what he has
20 paid, what he has not paid, what his
21 income has been --

22 MR. ZIMMERMAN: I don't want an
23 explanation.

24 MR. KLEIN: It is an objection,
25 he will not answer it.

1 STILES

2 MR. ZIMMERMAN: He will not
3 answer it?

4 MR. KLEIN: Correct.

5 MR. ZIMMERMAN: We will get a
6 ruling on that.

7 Q. In 2010 did you deduct property
8 taxes or property insurance on your tax
9 return?

10 MR. KLEIN: Same objection,
11 same reason.

12 MR. ZIMMERMAN: We are getting
13 the objection on the record and will
14 get a ruling on it.

15 MR. KLEIN: I will save you the
16 time, he is not giving you his tax
17 records.

18 MR. ZIMMERMAN: You are not
19 saving me time because we are getting
20 it on the record.

21 Q. In 2011 did you deduct property
22 taxes or property insurance for 136 Elmwood
23 Road on your tax return?

24 MR. KLEIN: He will not answer
25 it.

1 STILES

2 A. No.

3 Q. Do you know where John Langer
4 worked at the time?

5 A. No.

6 Q. When you moved out of the
7 premises did you notify either your first
8 mortgage company or the company that held
9 your line of credit of your change of
10 address?

11 A. I don't recall.

12 Q. You don't recall if you
13 notified either one of them?

14 A. Correct.

15 Q. If you did notify them would
16 you have notified them by letter or some
17 other writing?

18 MR. KLEIN: Objection to what
19 he would have done. Objection to the
20 form.

21 MR. ZIMMERMAN: Can he answer?

22 MR. KLEIN: He can answer.

23 A. I don't recall.

24 Q. Would you have any records at
25 home that might indicate whether you

1 STILES

2 notified them of your change of address?

3 A. It's possible.

4 Q. I would ask you to search those
5 records and please provide me with any
6 documentation evidencing or notes that you
7 may have evidencing that you notified
8 either company of your change of address.

9 After you stopped being a loan
10 officer what did you begin doing for a
11 living?

12 A. Um, been out of work for a long
13 time. Um, I haven't really had a steady
14 job since then.

15 Q. 2481 Central Park Avenue in
16 Yonkers, New York, are you familiar with
17 that premises?

18 A. Yes.

19 Q. What is that, how are you
20 familiar with it?

21 A. Used to have a business there a
22 long time ago.

23 Q. What business was that?

24 A. I was in the auto glass
25 business.

1 STILES

2 A. Yes.

3 Q. When is the first time?

4 A. I have no recollection of when
5 the first time is.

6 Q. How many times did you
7 refinance the primary mortgage?

8 A. I couldn't tell you that
9 either.

10 Q. Was it more or less than ten
11 times?

12 MR. KLEIN: Those are matters
13 of public record.

14 A. I mean come on, really.

15 Q. More or less than ten times?

16 MR. KLEIN: Was it bigger than
17 a bread box? It's a matter of public
18 record.

19 MR. ZIMMERMAN: Counsel.

20 MR. KLEIN: You can see he is
21 hesitating, he doesn't really have an
22 answer for you.

23 A. I don't recall.

24 Q. So it could have been more than
25 ten times, okay.

1 STILES

2 A. It could have been more than 50
3 times too, I just don't recall.

4 Q. Are you familiar with an
5 address 39 Paddock Lane, Bedford, New York?

6 A. Yes.

7 Q. Whose address is that?

8 A. That was one of my residences.

9 Q. When did you reside there?

10 A. Prior to Elmwood Road.

11 Q. Did you stop residing there
12 when you began residing at Elmwood Road?

13 A. Yes, I sold that property and
14 then I bought Elmwood Road.

15 Q. At what point did you sell
16 Paddock prior to --

17 A. Six months prior to me
18 purchasing Elmwood Road, approximately.

19 Q. Are you familiar with an
20 address 105 South Bedford Road in Mount
21 Kisco?

22 A. I am not recalling that
23 address.

24 Q. Okay.

25 Who is Ann Stiles?

1 STILES

2 A. No.

3 Q. Did you ever apply for a loan
4 modification on your first mortgage?

5 A. No.

6 Q. Did you ever apply for a loan
7 modification on your second mortgage?

8 A. No.

9 Q. Is there a third mortgage on
10 this property or 136 Elmwood?

11 MR. KLEIN: If you mean was a
12 mortgage recorded, yes, you know the
13 answer to that because it's of record
14 and you have added the Defendant.

15 MR. ZIMMERMAN: There is
16 obviously a record, but I need to ask
17 him about it, so.

18 Q. Did you ever take a third
19 mortgage on this property?

20 A. Yes.

21 MR. KLEIN: Note that mortgage
22 is being contested in a separate
23 matter.

24 MR. ZIMMERMAN: Okay.

25 Q. Do you recall if you had a

1 STILES

2 purpose for taking that third mortgage?

3 A. I don't recall.

4 Q. Do you recall what you used the
5 money from the third mortgage for?

6 A. No.

7 Q. Did you, in fact, receive money
8 from the third mortgage?

9 A. Yes.

10 Q. At any time since August of
11 2008 did you make a promise to pay or make
12 a payment on the second mortgage or the
13 line of credit we are here for today?

14 A. No.

15 Q. Do you recall receiving a
16 letter regarding this second mortgage
17 notifying you of what the outstanding
18 balance was and that you had a right to get
19 assistance in foreclosure and providing you
20 with a list of organizations that could
21 provide you assistance?

22 Please do not review documents.

23 A. I can't look at stuff that I
24 provided you with?

25 Q. Correct.

1 STILES

2 I am asking if you received a
3 letter notifying you -- give me one second,
4 let me pull it.

5 Please do not review records.

6 MR. KLEIN: Just give him a yes
7 or no and he will carry it from
8 there.

9 MR. ZIMMERMAN: Off the record.

10 (Whereupon, an off-the-record
11 discussion was held.)

12 Q. Did you receive a notification
13 in 2016 that you could lose your home, to
14 read the notice carefully that provided you
15 with organizations that could assist you in
16 trying to save your home from foreclosure?

17 A. From who?

18 Q. Regarding the second mortgage
19 that we are here for today.

20 A. Did I receive something from
21 2016 from the second mortgagee?

22 Q. Yes.

23 A. At my address in --

24 Q. I am just asking if you
25 received it.

1 STILES

2 A. Saying that -- I am sorry.

3 Q. Warning you that you could lose
4 your home in foreclosure and providing you
5 with a list of organizations that could
6 assist you in attempting to save your home.

7 A. I don't recall, I may have.

8 (Short break taken.)

9 Q. Did you ever receive
10 communications from National City after you
11 took the second mortgage?

12 A. Yes.

13 Q. What types of communications
14 were those?

15 A. I received bills, I have
16 submitted them to your law firm, to my
17 attorney who has submitted to you,
18 everything that I had in my records.

19 Q. Did you ever receive anything
20 other than bills from National City?

21 A. I believe there was a bill in
22 there and there were default letters also.

23 Q. You did not receive the actual
24 documents that you gave your lawyer at or
25 near the dates on those documents; correct?

1 STILES

2 MR. KLEIN: He asked about the
3 last page.

4 MR. ZIMMERMAN: Then I am going
5 to go to the second to last and then
6 cover the initials.

7 A. Obviously that is not my
8 signature.

9 Q. Second to last page, is that
10 your signature?

11 A. I don't know that it is my
12 signature, but.

13 Q. Do you recognize your own
14 signature?

15 A. I am not a handwriting expert,
16 but.

17 Q. Does that look like your
18 signature?

19 A. It looks like it could be.

20 Q. Do you recall signing a
21 document like this in or about July of
22 2007?

23 A. I must have signed it because I
24 got the money, so if that is the answer.

25 Q. Are those your initials on each

1 STILES

2 of the pages?

3 A. Could be my initials, yeah.

4 Q. Does it look like your
5 initials, the way you write them?

6 A. It looks very similar to mine.

7 Q. Was the property in your name,
8 your wife's name, or both of your names?

9 A. That I don't recall.

10 Q. On the last page would that be
11 your wife's signature; to the best of your
12 knowledge?

13 A. It could be her signature.

14 Q. Does it look like her
15 signature?

16 A. Um, is that not a suspicious
17 answer. I don't know that it is her
18 signature, I can't swear that that is her
19 signature.

20 Q. I am asking if it looks like
21 her signature, you have been married for
22 many years.

23 A. Does it look like her
24 signature, it looks like it.

25 Q. And the initials next to yours,

1 STILES

2 does that look like her initials?

3 A. Yeah.

4 MR. KLEIN: Yeah what?

5 THE WITNESS: It could be.

6 Q. Do you recall if your wife
7 signed the documents or any of the
8 documents when you took the line of credit
9 out?

10 A. Yeah, I can't really recall
11 signing that document. I am not saying I
12 didn't sign it, I can't recall, you know,
13 me signing the document or my wife signing
14 the document.

15 Q. I am going to show you what has
16 been marked as Plaintiff's Exhibit 3
17 (handing).

18 Do you recognize this document?

19 A. Well, looks like an equity line
20 of credit agreement.

21 Q. Is that your signature on the
22 second to last page?

23 A. Same signature as on the
24 mortgage and initials look the same, yes.

25 Q. Do you recall signing a

1 STILES

2 City you did not receive all the documents
3 by facsimile, but PNC you are not sure?

4 A. Well, I am saying that there
5 are some documents that I provided to my
6 attorney that I received via -- via the
7 fax, now whether that was from National
8 City, PNC, or whoever sent it to me, you
9 know, if I see the document I can tell you
10 where I got the document from, whether I
11 have the original or whether I received it
12 in the mail and have the original or
13 requested it from what company to refresh
14 my memory and they faxed it to me,
15 everything in their file.

16 (Whereupon, documents were
17 marked as Plaintiff's Exhibits 4
18 through 9 for identification as of
19 this date by the Reporter.)

20 Q. I am going to show you what has
21 been marked as Plaintiff's Exhibit 4. It
22 appears to be dated July 11, 2009,
23 (handing).

24 Can you tell me what that is?

25 A. It looks like a default letter

1 STILES

2 letter.

3 Q. That is dated July 11, 2009?

4 A. Yes.

5 Q. Is this one of the documents
6 that you gave your attorney?

7 A. Yes.

8 Q. How did you receive this actual
9 document that you gave your attorney?

10 A. Via fax.

11 Q. If you could take a look at 4A,
12 the next page, this is also the same
13 letter?

14 A. It's the same letter.

15 Q. Bates stamped, you see the
16 number in the lower left stamped on it?

17 A. I see a date.

18 Q. Not a date. A number.

19 A. I see 011 on the left-hand
20 corner.

21 Q. Right.

22 MR. ZIMMERMAN: Just let the
23 record reflect that that is
24 Mr. Stiles' attorney's bates stamp.

25 Q. So this was stamped by your

1 STILES

2 MR. KLEIN: Same objection.

3 MR. ZIMMERMAN: Okay.

4 MR. KLEIN: He IS not going to
5 answer it in that form. Just clarify
6 what you are asking.

7 Q. Do you have any independent
8 recollection of seeing the original
9 document dated July 11, 2009 from National
10 City, if one exists?

11 A. I believe I did receive a
12 default letter from them.

13 Q. Do you recall if it was
14 specifically this one dated July 11, 2009?

15 A. Honestly, for me to say I
16 remember the date on a letter I received
17 back in 2009, I can't say I remember it was
18 July 11, 2009, but that is --

19 Q. So I will back up.

20 In July of 2009 you were living
21 at Maddaket Loop; correct?

22 A. If that fits within the one
23 year I would still be on Maddaket Loop.

24 Q. Do you recall if you received
25 such a default letter or acceleration when

1 STILES

2 asking do you remember where you were
3 living when you received the letter.

4 I will withdraw that question
5 and I will ask it again after I show you
6 the other letters, okay. Let's just do it
7 that way.

8 A. That would make sense.

9 Q. So I am going to show you what
10 has been marked as Exhibit 5 (handing).

11 MR. KLEIN: Can he hold 4?

12 MR. ZIMMERMAN: That is fine.

13 Q. Do you recognize that letter?

14 A. Yes, it's a default letter.

15 Q. And what is the date on this
16 one?

17 A. October 24, 2009.

18 Q. And is this one of the letters
19 that you provided to your attorney?

20 A. Yes.

21 Q. How did you receive this
22 letter?

23 A. Originally by mail, and then by
24 facsimile from National City.

25 Q. I am asking about the specific

1 STILES

2 letter that you sent to your attorney, the
3 actual letter that you sent to your
4 attorney. This is a copy provided by your
5 attorney. Did you receive it by facsimile
6 or by mail or by some other method?

7 A. The one I sent him I received
8 via facsimile.

9 Q. So we haven't gotten to any
10 document that you received by mail that you
11 sent to your attorney yet; correct?

12 MR. KLEIN: The record will
13 speak for itself. Let's move onto
14 another question.

15 A. I am not saying I didn't
16 receive these in the mail. I am saying --

17 Q. I am not talking about whether
18 you received copies or originals of these
19 years earlier, but these actual documents.

20 A. We are not talking about years
21 earlier. We are talking about this
22 document, I am not talking about years
23 earlier.

24 Q. When is the first time you,
25 personally, recall receiving this document,

1 STILES

2 Exhibit 5?

3 A. I believe I received Exhibit 5
4 and also Exhibit 4 in 2009 on and around
5 the dates that I see in front of me, July.

6 Q. So we are talking about
7 Exhibit 5. You are saying you recall
8 receiving an original of Exhibit 5 in the
9 mail in 2009?

10 A. You know, I don't know what to
11 say.

12 Q. You just testified, and I am
13 breaking it up because you said 4 and 5 so
14 now I am asking you do you recall receiving
15 Exhibit 5 in the mail?

16 A. I believe I received the
17 default letters in the mail, yes.

18 Q. I am not speaking in general,
19 but each specific document. Do you have a
20 recollection of any specific default letter
21 or just the receipt of a default letter?

22 MR. KLEIN: Or letters.

23 MR. ZIMMERMAN: Or letters.

24 Q. I want to know which one you
25 received, if you don't remember which one I

1 STILES

2 MR. ZIMMERMAN: Yeah. I think
3 it is 6 and 6A.

4 A. Yeah, I believe I provided him
5 a copy of this letter.

6 Q. And the redaction was not on
7 the letter when you provided it to your
8 attorney, neither was the number in the
9 lower left of 6A or the fax headers on the
10 top of either 6 or 6A; correct?

11 MR. KLEIN: 6 or 6A?

12 Q. Actually, take that back.
13 6A without the number in the
14 lower left-hand corner, that is actually a
15 copy of the document that you provided to
16 your attorney; correct?

17 A. That's correct.

18 Q. And how did you receive that
19 document, the actual document that you
20 provided to your attorney with the fax
21 header on the top?

22 A. I received -- that one I
23 provided my attorney, I received that via
24 fax.

25 Q. And do you have any

1 STILES

2 my attorney and my attorney told me to --

3 MR. KLEIN: Don't discuss what
4 you and I talked about.

5 A. And I checked my records, the
6 first thing I did was check my records for
7 any information I had on National City,
8 PNC, and I found certain things in there.
9 I had recalled receiving default letters, I
10 was looking for default letters, I couldn't
11 find them in the files that I looked, but I
12 did find some information that I provided
13 my attorney with and I picked up a
14 statement from, I believe it was National
15 City, and I called the 800 number, maybe it
16 was PNC, maybe it was National City, I
17 would have to look at the documents, and I
18 called them to tell them that I received
19 default letters on or around 2009 and could
20 they search their records and provide me
21 with any information that they had. They
22 said they would. I gave them my
23 information and they sent me the three
24 default letters that I provided to my
25 Counsel.

1 STILES

2 Q. And those would be the three
3 default letters that we have been
4 discussing?

5 A. That's correct.

6 Q. Did you receive any other
7 default letters other than these three from
8 PNC or National City?

9 A. I believe that was asked and
10 answered in the prior question.

11 Q. I don't believe you answered
12 it.

13 MR. ZIMMERMAN: In fact, I am
14 going to withdraw it and can you read
15 the question back.

16 (Whereupon, the referred to
17 question was read back by the
18 Reporter which is re-stated below.)

19 Q. Other than these three letters
20 and statements from National City and PNC,
21 did you receive any other correspondence
22 from National City or PNC?

23 A. I answered that question in the
24 prior question.

25 Q. Actually, you didn't. I

1 STILES

2 2010, did anyone occupy that house between
3 the time you left in August or about
4 August 2008 up until that individual
5 occupied the house?

6 MR. KLEIN: You mean was he the
7 first tenant?

8 Q. I am asking, first off, did
9 anybody occupy the house between August of
10 2008 and him moving in in 2010?

11 A. No, but I had been back and
12 forth to the house during that period of
13 time, but there was no one living there
14 full-time.

15 Q. When you would return to the
16 house would you stay in the house?

17 A. Sometimes.

18 Q. Was there anybody maintaining
19 the house in terms of heat, water; things
20 like that?

21 A. I was paying all the bills.

22 Q. Did you have anyone checking on
23 the house during that time period?

24 A. Yes.

25 Q. Did the house ever get mail

1 STILES

2 that wasn't forwarded, for instance?

3 A. I am sure it did.

4 Q. Did anybody forward you the
5 mail?

6 A. I have had people pick up mail
7 for me before there and I have picked up
8 mail there before and I have had people
9 pick up mail for me before and hold it for
10 me while I was in New York at times.

11 Q. From August 2008 until,
12 approximately, February of 2010 when you
13 said you had the mail forwarding, was there
14 anybody forwarding mail to you other than
15 the U.S. Postal Service? Like, in other
16 words, did any mail get through to the
17 house that wasn't forwarded that you had
18 forwarded to you or did it all get
19 forwarded to you?

20 A. You know, knowing the Postal
21 Service that is a good question, that is a
22 very good question.

23 (Whereupon, the referred to
24 question was read back by the
25 Reporter.)

1 STILES

2 the question or you think there is
3 some other legal implication --

4 A. I don't hold the mortgage, no.

5 Q. So if I told you I have a
6 recorded document in front of me that
7 indicates that you own 50 percent of a
8 \$300,000 mortgage on that property you are
9 telling me that this document is incorrect?

10 MR. KLEIN: Are you asking for
11 a legal --

12 MR. ZIMMERMAN: He is saying he
13 doesn't own it. I have a document
14 that says that he does.

15 MR. KLEIN: Right.

16 MR. ZIMMERMAN: I am trying to
17 determine if there is a
18 misunderstanding here, if the
19 document is wrong.

20 MR. KLEIN: There is a legal
21 implication that he can't answer.

22 MR. ZIMMERMAN: He is an
23 intelligent man who knows whether he
24 owns or does not own.

25 MR. KLEIN: No, he does not,

1 STILES

2 because he is not an attorney.

3 MR. ZIMMERMAN: He is not
4 capable of determining if he owns or
5 doesn't own something?

6 MR. KLEIN: Correct, and I
7 maintain the objection as to the
8 relevance of the question to the
9 issues in this case.

10 Q. You mentioned before that you
11 were familiar with the property. How is it
12 that you are familiar with the property?

13 MR. KLEIN: Enough, he is not
14 going to go into 128th Street
15 anymore.

16 MR. ZIMMERMAN: We will call
17 the judge and take it from here.

18 (Whereupon, an off-the-record
19 discussion was held.)

20 (Whereupon, at this time, the
21 attorneys called the Court.)

22 MR. ZIMMERMAN: We were on the
23 phone with chambers that indicated
24 the individual there could give their
25 opinion as to the questions. Counsel

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2 did not want his opinion, wanted the
3 Judge's opinion. The Judge is
4 unavailable. We were told the Judge
5 should be available in a half an hour
6 and to call back. Counsel has
7 indicated that they are not waiting.

8 As far as I am concerned, those
9 questions are still pending, the
10 refusal to answer them is in
11 violation of Federal Rules and their
12 choice to leave at 2:30 in the
13 afternoon of a deposition is
14 premature, is objectionable,
15 actionable, and I am going to wait
16 and try to get a ruling. They have
17 the choice of waiting around. If
18 they leave I am either going to ask
19 for preclusion or the witness, at
20 minimum, be required to appear here
21 tomorrow morning.

22 MR. KLEIN: My client has
23 indicated to me that, as he stated
24 when we opened, he is not feeling
25 well, he is on medication and he

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2 feels he has answered any question
3 that is in any way relevant to the
4 issues at bar. I feel the same way,
5 and as I told Counsel again when we
6 started, I have a situation at home
7 which calls for me to get home as
8 quickly as I can. My wife has had
9 surgery, there is nobody with her and
10 I have to be home with her. I will
11 be glad to participate in a joint
12 telephone call with the Judge at the
13 tail end of the afternoon if that is
14 practical, but I cannot stay to a
15 time when we do not know. So we are
16 leaving.

17 MR. ZIMMERMAN: So you are
18 giving two different explanations,
19 one is medical and one is I have done
20 enough?

21 MR. KLEIN: Correct.

22 MR. ZIMMERMAN: If it were
23 medical you would be here tomorrow
24 morning.

25 MR. KLEIN: I would show you my

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2 schedule for tomorrow.

3 MR. ZIMMERMAN: I have a
4 schedule as well.

5 MR. KLEIN: Which has my wife
6 going to two different doctors, she
7 only has one husband and that is me.

8 MR. ZIMMERMAN: I completely
9 understand. Then are we coming back
10 Wednesday?

11 MR. KLEIN: Let's see what the
12 Judge says when you call.

13 (Whereupon, at this time,
14 Mr. Klein and Mr. Stiles left the
15 Examination room and did not return.)

16 (Whereupon, at this time,
17 Mr. Zimmerman called the Court.)

18 MR. ZIMMERMAN: I did get Judge
19 Roman on the phone. I advised him
20 that we posed questions that were
21 objected to and that we needed a
22 ruling on because they refused to
23 answer. The Judge pointed out that
24 the Federal Rules require them to
25 answer the questions after putting

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the objection on the record. I explained that they refused, nonetheless, and he essentially told me that I should make a Motion at this point because they didn't answer the questions that the Federal Rules require them to answer.

(Whereupon, at 3:05 P.M., the Examination of this witness was concluded.)

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D E C L A R A T I O N

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I hereby certify that having been
first duly sworn to testify to the truth, I
gave the above testimony.

I FURTHER CERTIFY that the foregoing
transcript is a true and correct transcript
of the testimony given by me at the time
and place specified hereinbefore, *subject*
to the corrections on the errata sheet.



KEITH STILES

Subscribed and sworn to before me
this 23rd day of February 20 18.


NOTARY PUBLIC

JEFFREY I. KLEIN
Notary Public, State of New York
No. 01K16006948
Qualified in Westchester County
Commission Expires Aug. 18, 2019

Diamond Errata Sheet

Plaintiff(s): _____

Defendant(s): _____

Page	Line	Correction	Reason for Correction
12	3	"I believe the address is 112"	checked Records
20	25	"Around 3 months after I moved out of"	Better Recollection
21	5	"Around 3 months after August of 2008, correct"	" " "
21	5	"That's approximately correct"	" " "
22	9	"Had forwarding unit approximately until May of 2010."	" " "
24	23	"That question"	Mist transcription
25	24	"Let's move on. Do you want to mark"	Mist transcription
28	24	"I don't understand the question"	Mist transcription
39	25	"112"	checked my Records
40	5	"Yes that was my address"	checked my Records
54	12	"Signature, but it appears to be"	Review of document
55	16	"Um, it could be her signature"	Mist transcription
55	17	"I don't know that it is her"	Mist transcription
56	14	"The document, I know we had"	Better Recollection
56	14	"A closing and we signed the papers"	Discussion with wife
62	24	"It came came to me with the account numbers and my attorney redacted it because of court rules"	Discussion with attorney and review of documents as received
89	22	"That's correct from wherever sent the fax"	" " "
92	12	"Not make it to North Carolina"	Left out the word NOT
95	3	"I believe I am saying that"	Discussion with wife
95	3	"Also, somebody came to the house with a copy of the papers"	" " "

Date: 2/21/18

Name of Witness: _____

Signature: [Signature]

Subscribed and sworn to before me

This _____ of _____ 20 ____.

Notary Public